UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

RETURN DATE:
November 13, 2013
10:00 A.M.

IN RE:

DAVID HOLLIDAY &
DARLENE HOLLIDAY

Chapter 7
Case No. 11-14182SHL

DEBTORS.

TO THE HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE

I, David J. Babel, am an attorney duly admitted to practice law in the State of New York and in the Southern District of New York and I submit this affirmation under penalty of perjury. I am fully familiar with the facts and circumstances alleged herein and affirm the following:

1. I make this affirmation pursuant to section 707(a) and Rule 1017 of the Bankruptcy Code in support of the Debtors' Motion for Voluntary Dismissal of this Chapter 7 case.
2. On September 4, 2011, the Debtors filed for bankruptcy under Chapter 13 of Title 11 of the United States Bankruptcy Code. This case was later converted to one under Chapter 7 on October 2, 2013 due to a substantial reduction in the Debtors' income.

3. That, shortly thereafter, this office realized that the conversion to a Chapter 7 was done in error inasmuch as the Debtors had previously filed a Chapter 7 case within 8 years of their Chapter 13; thereby preventing them from obtaining a Chapter 7 discharge upon conversion.
4. The Debtors had intended to allow their Chapter 13 case to collapse pursuant to the pending Trustee's Motion to Dismiss and later file a new Chapter 7 proceeding which would have allowed them to receive the discharge they seek.
5. The Debtors are otherwise eligible to file a Chapter 7 Bankruptcy and the error in conversion was not in any way the fault of the Debtors.
6. As such, the Debtors now wish to have their converted Chapter 7 case voluntarily dismissed so that they may re-file and thereafter obtain a discharge of their debts.

WHEREFORE, pursuant to section 707(a) and Rule 1017 of the Bankruptcy Code, the Debtors request that an Order be entered allowing for the voluntary dismissal of this Chapter 7 case without prejudice and granting such other relief as is just and proper.

Dated: October 8, 2013

By: /s/DAVID J. BABEL

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